

promulgated thereunder.²⁸ However, Congress determined that Section 272's safeguards would be necessary for three years *after* a BOC gained Section 271 authority to provide the type of in-region interLATA long distance services the BOCs seek permission to provide here. Since the BOCs have made no case demonstrating full implementation of Section 271, their requests for forbearance from Section 272, as applied to in-region services, are fatally premature.²⁹

3. Nondominant Status

There is even less support for Ameritech's request that its data services be subject to nondominant carrier regulation.³⁰ Ameritech claims that it is nondominant because it is a "new entrant" in the broadband market and does not have any "embedded facilities."³¹ However, Ameritech ignores the fact that most of its fiber optic facilities can be used for either broadband, narrowband, circuit switched or packet switched services, depending solely upon which electronics it attaches to the network. It can and does hold substantial advantages in data services, solely due to its near monopoly in the local market. Grant of nondominant status is plainly inappropriate for those services, whenever Ameritech begins to provide them. In addition, the Commission must remember that the new entrants' market presence continues to be

²⁸ See Ameritech Petition at 14-22; Bell Atlantic Petition at 17-18 (seeking "deregulation" that apparently includes removal of "separate affiliate restrictions that hamper the efficient deployment of an advanced network").

²⁹ Moreover, forbearance from Section 272's requirements would not satisfy Section 10(a)'s criteria. Section 272 was enacted based on a congressional assessment that safeguards were necessary to ensure that BOCs do not use the inherent competitive advantages that result from their control over bottleneck facilities to engage in precisely this sort of anticompetitive behavior. The BOCs have offered no support for reversing that judgment.

³⁰ Ameritech Petition at 25-27.

dependent upon BOC provisioning of local loops and other essential facilities. This control provides a powerful vehicle for the BOCs to exercise market power in data services.

C. The BOC Petitioners Could Moot Their Requests Simply by Complying with Section 251

Interestingly, the Petitions concentrate the majority of their arguments on relief that is within a BOC's own control. The keys to interLATA authorization were placed in the BOCs' hands on the day the Telecommunications Act of 1996 became law. To break free from the interLATA restrictions the Petitions now complain of, a BOC need only demonstrate that it has opened its local monopoly markets to genuine competition. The BOCs have not upheld this part of the bargain, however, and now come before the Commission to argue that they should receive interLATA authority just because they ask. That emphatically is not what Congress intended in adopting Section 271. Accordingly, the BOCs should obtain the relief they now seek by complying with the statute and by taking the actions they were instructed to take over two years ago to promote the development of local competition. Unless and until the BOCs fulfill those obligations, the FCC must continue to have the courage to say "no" to BOC requests that do not meet the standard or seek to rewrite the Act.

IV. CONCLUSION

Demand for Internet and data services is at a record high. The market is responding to such demand, in the form of billions of dollars in investments being made by scores of carriers,

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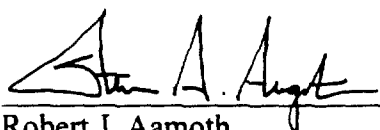
³¹ *Id.* at 26.

and in the “aggressive extension” of the network BOCs such as Bell Atlantic are embarking upon. The premise that radical removal of the 1996 Act’s initiatives is necessary to encourage deployment of advanced technologies thus is wholly without merit. Moreover, the BOCs ask for relief that the Commission cannot grant or that directly contravenes the Act’s careful weighing of policy. Accordingly, the FCC should deny the BOC Petitions in their entirety.

Respectfully submitted,

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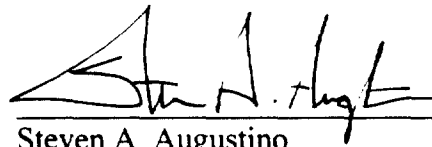
April 6, 1998

CERTIFICATE OF SERVICE

I, Steven A. Augustino, hereby certify that on this 6th day of April, 1998, I caused copies of the foregoing **"OPPOSITION OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION"** to be served via hand delivery upon those persons listed below.

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A handwritten signature in black ink, appearing to read "Steven A. Augustino", is written over a horizontal line.

Steven A. Augustino

CERTIFICATE OF SERVICE

I, Marlene Borack, hereby certify that on this 4th day of May, 1998, I caused true and correct copies of the foregoing REPLY COMMENTS OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION to be served via first class mail, postage prepaid, those persons listed below.

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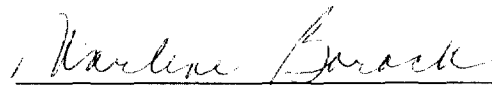
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